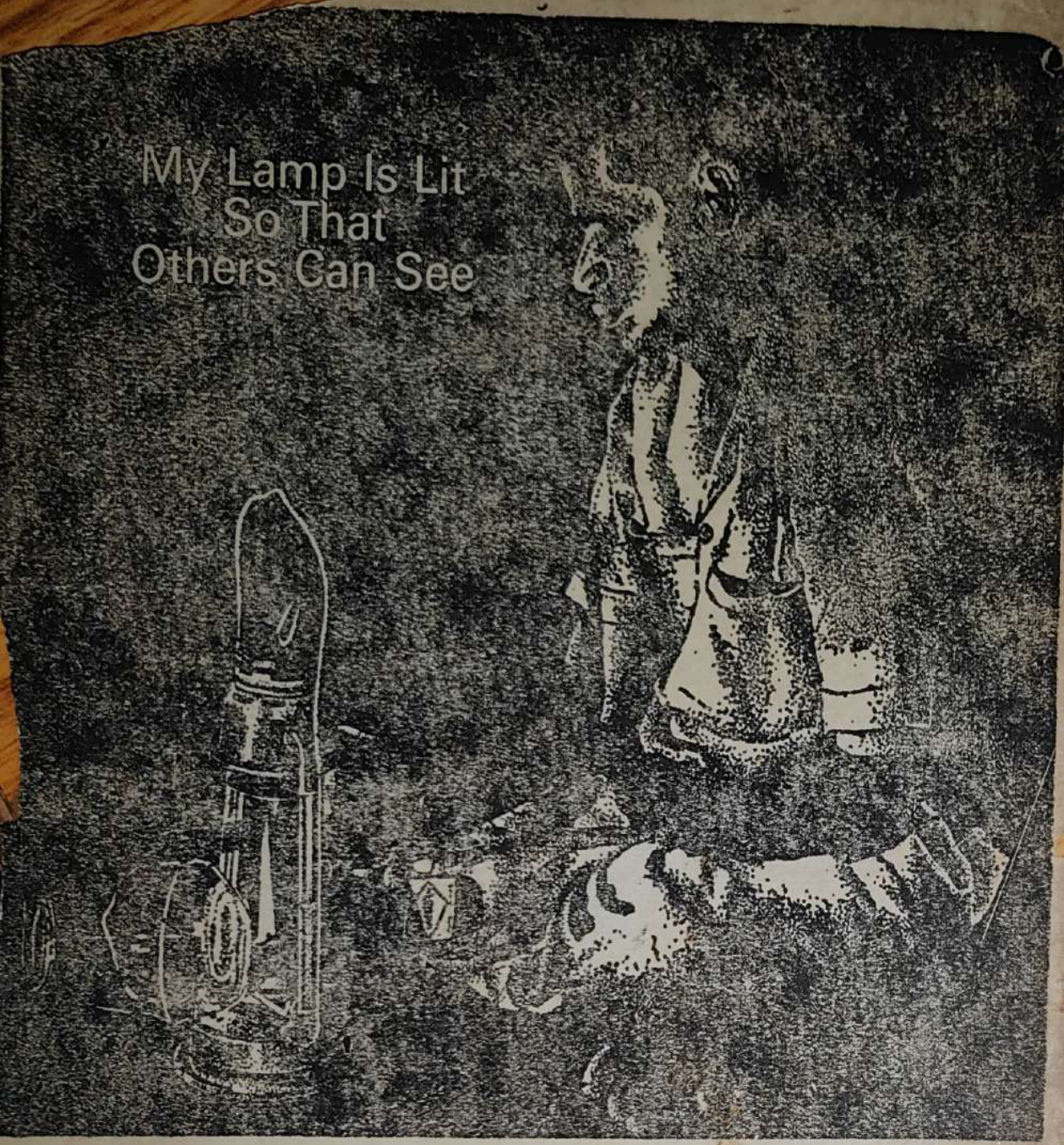
OPINION

MARCH 1972

Single Copy 50 P



At eventide on a lonely road, returning after a hard day's work, a blind man met a stranger who laughingly asked: "Does a blind man need light?" "Yes," replied the blind man, "my lamp is lit so that others can see."

On the palm fringed shores of Phansa, near Daman, Tatas have donated a 240 acre farm. Here, the blind are trained as farmers and tradesmen, resettled on their own farms or in co-operative endeavours.

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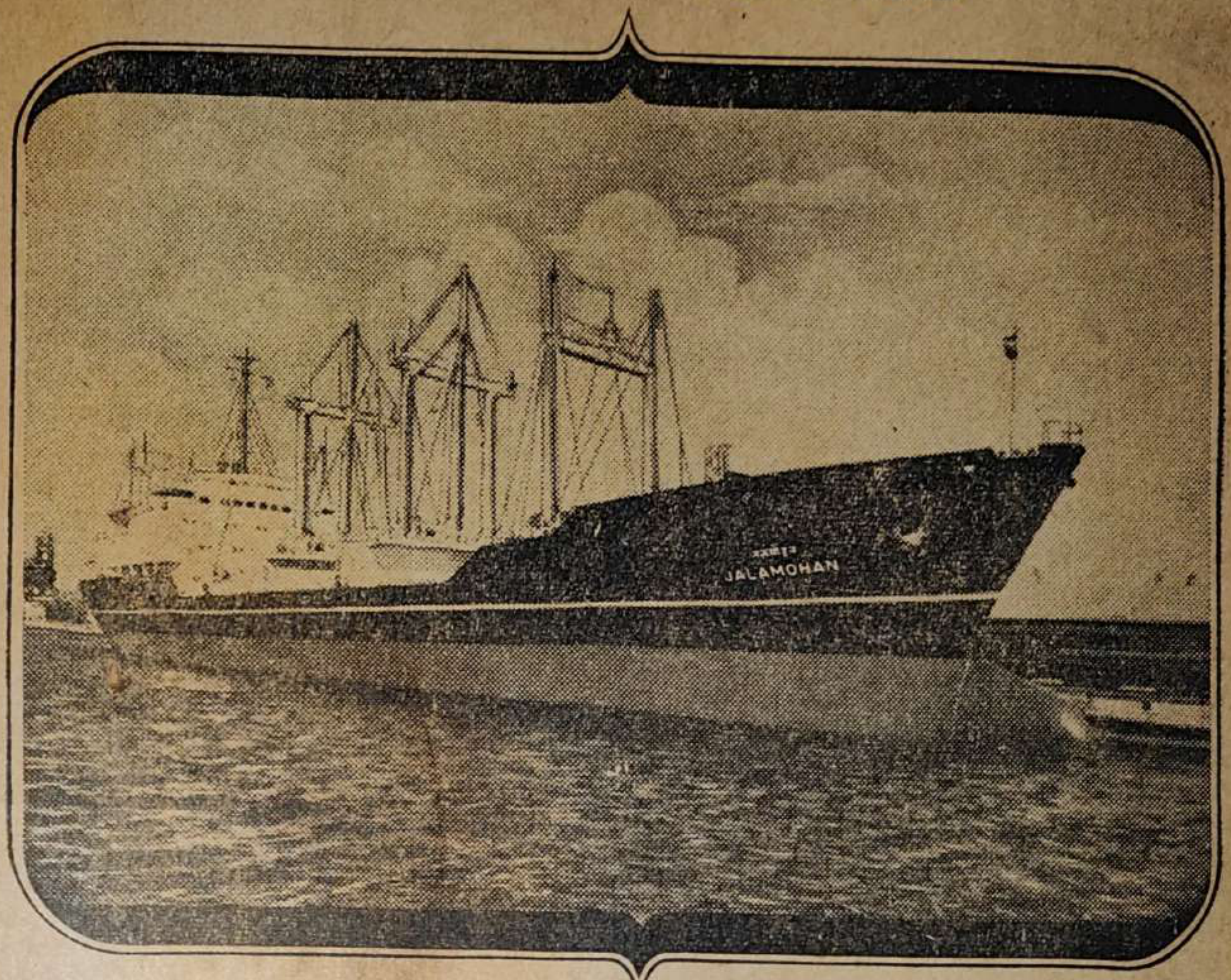

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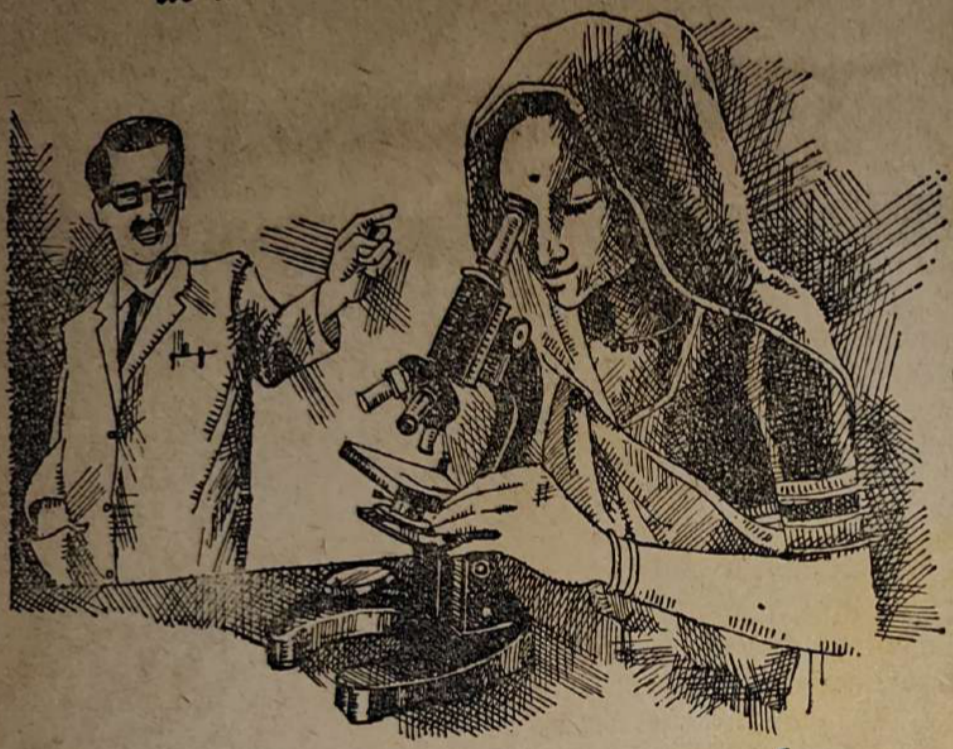
Milk co-operatives as an instrument for adult education



What happens when a village woman in Kaira peers at buffalo semen through a microscope?

In Kaira, batches of women—most of them illiterate—visit the artificial insemination centre every day. They learn the mysteries of conception and birth in scientific terms, from the technicians employed by their milk co-operative. Can they help relating these facts to themselves? When their technicians speak of the nutrition needs of buffaloes and calves, their thoughts turn to themselves and their children.

A new view of their own life begins to form, and the frontiers of knowledge widen. When true education begins, superstition breaks down.

Amul has shown the way.

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THE SUCKER-MAKERS

MOST noble in their utterances are both the Prime Minister and the Finance Minister. On the same day at almost the same time at different venues in the same city they disclosed to us their exalted common objective. Said the Prime Minister, "We speak of growth and development. But it is the *uplifting of man* and not the increase of productivity which is the proper concern of development", and consequently, presumably of her Government. Said the Finance Minister, "The Government was not merely concerned about abstract rates of economic growth, but was also aiming to *improve the quality of the man* in India. That was the philosophy behind the Budget." (*The Sunday Standard* Report.) Wah, wah, chekhub, this student cannot help exclaiming. Not since a group of Community Development teachers over a dozen years ago insisted that they were marching to Destination Man and could not stop to argue has he been so edified. Truly the blaze of idealism would seem to burn brightly in the hearts of our most important and influential personages! Truly one may suppose that its light and fire will soon spread throughout the land.

Alas, things do not happen so. Hardly any one doubts today that Community Development has been an abject failure, that ninety per cent of the hundreds and hundreds of crores spent upon it have been sheer waste. Did the great ones not see this result was inevitable? They chose not to. It would not have suited their game. Said *Opinion* (Special Number, 1962):

"To governments of this type and quality, carefully-worked-out policies that, observing objectivity throughout, take account in each matter of things as they are, of things as they ought to be, of the steps necessary to change the first into the second, the extent to which each step is practicable, of how, if it is not, it can be made so, of the amounts that would have to be spent and the number and kind of men that would be needed at every step, of the benefits that should accrue, of the watch to be kept on the operations, of the reports of the watchers and the measures to be taken on them, are anathema. They are far more concerned with the appearance than with the reality. The grandiose, the spectacular, that is their proper line. They aim to impress rather than to do. Their reliance is not on thought and work but on slogan and panacea. They are always searching for short-cuts and cure-alls, and when they think they've found one, do they wait until they've tried it out quietly and honestly and satisfied themselves that it will work? Perish the thought. Such caution even today's lower division clerks would despise, and they are Ministers! No, with cries of joy, fanfare of trumpets and beating of drums, they proclaim the discovery of the era, the new drug that will get rid of all diseases. And when after a while, even they find that the new drug leaves the patient very much as he was, do they admit it and say "Very sorry, we've spent so many tens or hundreds of crores but it's no good. We were wrong. Let us stop."? No, they insist that the drug is doing the

patient good, that in fact he is cured, or almost cured, that those who say he isn't are ignorant or envious or vicious or all three, that after all they are the peoples's representatives, that they must be right, in fact they are right. And they go on to spend, i.e., to waste, several more tens or hundreds of crores, all the time looking out for some new panacea. . . . A classic example is the Community Development Programme. Proclaimed by the Prime Minister, among others, as the greatest revolutionary beneficial change for the countryside, hundreds of crores have been spent on it, thousands of tons of paper have been written about it and used in it, a full-time Minister and Ministry have been created for it, a whole new bureaucracy has been appointed to tend it, a special teaching institution has been established at a hill-station to train staff for it. And today, a failure, complete and ample! "The Community Development Programme has helped a few peasants here and there, but the great bulk of India's population is eking out an existence in the country's half-million villages under conditions which are not appreciably better than they were under the British." So says a Report in a recent issue of the Atlantic magazine. And it adds that even in the very few exceptional villages, specially looked after in each block, progress stops when the flow of public money stops. Many Indians have of course said the same thing, and said it long before, but I use this in deference to the special importance attached by the Prime Minister and other high Indian political dignitaries to the views of foreign—and, in consequence, presumably in their opinion, more knowledgeable and detached—experts. . . .

"At the same time, a new panacea! Lo and behold, Panchayati Raj! How melodious the sound! How wondrous the image! Hail the real revolution of the countryside! ("Yes, we said that about Community Development too, but must you be such a disgusting kill-joy as to bring it up on this glorious and anspicious occasion?") Some States have tried it for a year or more. Some of its supporters in them seem to be having second thoughts. But need that deter? No, onward and forward and upward. True, it hasn't been tried out in even a single district. Oh, never mind, faith moveth mountains. And, on the basis of faith, if that, and little else, even the Government of Maharashtra, pressed no doubt by the Community Development Ministry, the Planning Commission and probably the Prime Minister, embarks with rejoicing on this scheme. One thing can be said about it straightaway. There are going to be no beggarly honorary office-holders in it. No pay, no service. After all elections have to be fought for membership, and the Congress is fighting them everywhere. So whatever else happens, the certainty is so many more posts for so many more partymen. Besides there's quite a lot of patronage! One can hear the party-manager types saying, "Don't let us be too serious. If the scheme works,—though personally knowing the circumstances, and many of the men, it is doubtful at best—we get the credit. If it doesn't, well, we'll say that it does, and that those who say it doesn't are wrong and malicious, and we'll carry on. And three years is a long time. By then there's bound to be some thing new from Delhi, and we'll inaugurate that with great eclat, and keep this going too." The worldly wisdom that is self-interest

is an able advocate, yet it would get short shrift from men of personal integrity." (The hotbed of corruption and injustice that Panchayati Raj in general has become is too well-known to need comment.)

Personal integrity—in these two words is the key. Is there any sign of that sovereign quality in these high and mighty professed uplifters of man and improvers of his nature ? No impartial person can say there is. A great supporter of the Prime Minister, one who it seemed knew her well and had often seen her in acton, was holding forth on her the other day to this writer. She was courageous, she was decisive, she was imperturbable, she was energetic, she was untiring, she was charming, she was gracious, she was patient, she was understanding, she was truly patriotic, she had charisma, briefly she was wonderful ; quite out of breath, he paused and looked round complacently as if to imply that there could obviously be no answer to him. "Excellent," said the writer "I am deeply gratified to learn from one who can be said to know, how greatly we are favoured in our Prime Minister. Just one minor point you seem to have left untouched. Tell me, why did your dithyramb not include integrity ? Don't you want to assert with the same emphasis, she is honest ?" "You really are atrociously narrow-minded" he broke out. "Is it a grocer or a pedlar we are considering, some treasury clerk or bank cashier ? The potentate under discussion is the ruler, quite literally, of All-India and your excuse for a mind wants to apply the standard of honesty to such a person. Really you ought to be ashamed. Thank God for the Prime Minister, I say. People like you make me sick. Fortunately there are very, very few." "Then you do not say with certainty that she is honest ?" asked this writer. "Of course I don't, I consider that point irrelevant in the total context. In her position, you do what you can, you can't be bothered about scruples. Results alone matter." "I see," said the writer, "that your general view of political leadership is very much Machiavelli's. Your Princess you would have his ideal, wouldn't you ? Perhaps you think her so already." "Words, words" he said angrily, "you don't frighten me by bringing in Machiavelli's name, I say you are wrong, quite wrong." "Thank you," said this writer, "let me refill your glass. Would that you had rather said, she is honest, quite honest. But anyhow, you are a much better fellow than you, with your doctrine of political necessity, would make yourself out to be : You are sufficiently honest not to lie to me, not to assert with the greatest self-assurance the exact opposite of what you know to be true. You're only a half-Machiavelli you know. You advise rascality, but can't practise it fully. There's still hope for you." The courtier smiled, not altogether ill-pleased.

And is the Finance Minister honest ? Will decent folk come forward to vouch for his personal integrity ? "He is a very able man," said a knowledgeable and devoted admirer, "on the whole well-meaning, but with his eye all the time on the main chance. Principled ? Honest ? Well that depends on the meaning attached to the terms. He will never give up anything he cherishes personally by being principled, nor let honesty prevent him from grabbing anything he holds worth acquiring.

Continued on Third Cover]

MOSCOW AS COMMUNIST MECCA

A. G. NOORANI

FOR decades students of Soviet policies have furiously debated as to whether ideology of the national interest inspires its foreign policy. Barely had this debate died down than another began. The Soviet Union is no longer a State espousing an ideology but is simply a Great Power content with the greatness of its power, said some. Others contested this and argued that advancement of ideology and the expansion of power are neatly blended and that only the external limits operate as a check on the Soviet Union.

The latter view is far the sounder one. The Soviet Embassy in India publishes a bulletin *Soviet Review*. This periodical has in the past freely published the speeches of Soviet delegates at the CPI's Congresses telling the Indian Communists how to conduct themselves. A recent issue (February 22, 1972) carries, as a special supplement, an article by Mr. Boris Ponomaryov, Secretary of the CPSU Central Committee and one of the leading Communist ideologists. Entitled *Topical Theoretical Problems of the World Revolutionary Process*, it is a detailed exposition of the tactical line for the benefit of the faithful the world over; in India it is received as a doctrine for the CPI.

The 1969 Conference of the Communist Parties held in Moscow and the 24th Congress of the CPSU, Mr. Ponomaryov writes "orientate all Communists on fully utilizing the new opportunities offered by the present stage of history". Their prime objective must be to "advance steadily the cause of development and consolidation of the world socialist system, and enhance its role as the decisive anti-imperialist force, as a bulwark of peace and social progress".

The author sheds light on certain issues which he feels are central to "the international communist movements' development of theory". The role of the Communist Parties in the "emergent States" is one of them. They all subserve the Soviet Union. "It is obvious that the victories won by the national liberation movement, the successes gained by the working class of the capitalist countries and the solution of the problem of averting another world war—a problem of vital importance to the whole of mankind—are indissolubly and decisively linked with the achievements of the world socialist system".

Again and again one finds the view advocated forcefully that only the domination of the Communist Parties in any movement can be a guarantee of progress. "It all depends on whether the advance forces of the working class movement, primarily the Communist Parties, are able to ensure cohesion of the anti-monopoly front, firmly establish themselves in the new positions, inflict a defeat on all varieties of revisionism, and raise political, organisational, ideological and education work to the level of

existing revolutionary possibilities." Moreover, any movement, even if it is communist, must make obeisance to Moscow. One finds in Mr. Ponomaryov's thesis, throughout, criticism even of Communists who express doubts about the infallibility of Moscow. Emphasis is placed on flexibility in tactics. Mr. Ponomaryov advocates the "mastering of the tactics and of all forms and means of the class struggle, the ability to replace these forms and means and to re-group forces in adaptation to the changed situation."

Thus in regard to the capitalist world the author cautions the Communist Parties that "being an organisation of the working class, the Marxist-Leninist Party strives to attain strong political positions in its own country by making most effective use, among other things, *of every opportunity offered by the bourgeois-democratic system. But while striving to win such positions in the elective bodies, and to use the existing legal opportunities* for protecting the interests of the working people and influencing the policy of the bourgeois of Social-Democratic government, the Communists, unlike the reformists, *always remain the party of the socialist revolution*".

Two extremes must be avoided; one is "to absolutize parliamentary methods and play down the significance of the mass extra-parliamentary struggle". This is called right opportunism. The sin of left opportunism consists in "absolutizing the armed forces of struggle for power". The correct approach is to exploit the ballot but be willing to use the bullet if the ballot fails to yield results.

Those who regard the Communist Party of India as a patriotic body will do well to hearken to these remarks of Mr. Ponomaryov on nationalism. "Nationalism does a great deal of harm to the cause of the revolution. Nationalist deviations prevent the working class of a given country from taking advantage in its struggle of favourable international conditions created by the achievements of world socialism and the weakening of the camp of imperialism and reaction. Nationalism is a dangerous enemy of the entire revolutionary anti-imperialist movement". The reason for this condemnation of nationalism is not far to seek. It sets up small states against the Soviet Union and the virus has entered the body politic of the Communist parties as well. Particularly concerned is the writer about the growth of nationalism within the Communist Parties, particularly in the west. (The Communist Party of India, however, will ever remain one of the most subservient parties in the Communist world.)

Mr. Ponomaryov says this of the Communist Parties which have begun to doubt Moscow's infallibility. "It has to be said that in some Parties the problem of unity of the international communist movement is interpreted chiefly from one point of view, with the emphasis laid exclusively on the need strictly to observe the independence and sovereignty of every party, to respect their independence in questions of formulating political strategy and tactics, and to rule out interference." He edges towards a formal acceptance of the autonomy of every Communist Party, but his insincerity becomes obvious when he proceeds to talk of proletarian internationalism and says that autonomy can never impair Communist solidarity. "Still less

can the weakening of the internationalist approach to the pressing problems of our time be tolerated. That is why one-sided emphasis on 'autonomy' and 'independence' at times looks like a thinly veiled polemic against those fraternal Parties which strictly and consistently uphold the principles of proletarian internationalism in the Communist movement".

At a time when some socialists, while professing to be wedded to democracy, advocate rapport with the Communist Party of India, it is important to note that in Mr. Ponomaryov's opinion *"a determined struggle against the social-democratic ideology and policies continues to be an important task facing the CPSU and the entire communist movement"*. But he also writes "Regarding united action as the cornerstone of their policy, Communists are continually putting forward new proposals for co-operation. The Right-wing social-democratic leaders cannot ignore the fact that unity of the working-class movement is increasingly being demanded by the march of events. *The policy of promoting this unity also helps to overcome bias and distrust with respect to Communists encountered in the middle and lower ranks of the social-democratic movement*, Communists will continue steadfastly to carry forward the Leninist policy of unity". This passage is by far the most important in the entire thesis and deserves careful analysis. The author himself advocates unity with the social-democrat and at the same time "a determined struggle against the social-democratic ideology". To anyone not familiar with Communist tactics, this would seem a contradiction in terms. But it is very characteristic of the duality that marks Communist tactics. It is the familiar "unity-and-struggle tactics"—unite with the enemy the easier to annihilate him. No one can read *New Age* these days without being struck by the CPI's dual attitude towards Mrs. Gandhi. On the one hand, it is most anxious to have a United Front with her Party ; on the other, it is busy evolving the tactical line in order eventually to overthrow her.

Dealing specifically with the countries of Afro-Asia, Mr. Ponomaryov observes : "There now exist broad opportunities for deepening national liberation revolutions with a view to effecting far-reaching anti-capitalist measures and creating the necessary conditions for advancing in the socialist direction. Even in countries with a long record of capitalist development the positions of the social forces rejecting this path are growing stronger, as is illustrated, for instance, by certain aspects of the events taking place in India, Ceylon, Nigeria and some other countries". What are the correct tactics the Communists must follow in these areas ? The Communist Parties "must learn to adapt themselves to the specific conditions of these continents where the peasantry makes up the bulk of the population, where religion remains to be an immense force, and where nationalism is often the predominant ideology". Hence the lip service to patriotic causes, hence also the exploitation of religion and of religious differences.

An essential pre-requisite is co-operation with the nationalist parties which have a mass following. Mr. Ponomaryov has learnt well the lesson of China. "It is common knowledge that the revolutionary Kuomintang headed by Sun Yat-sen roused the Chinese people and laid the groundwork

for a long revolutionary process which culminated in the victory of a people's revolution led by the Communists". As a result of United Fronts with more popular parties, "the progressive wing grows stronger and begins to gravitate towards Marxism-Leninism". One such country, of course, is India. But while laying down the tactical line for the Communists Mr. Ponomaryov is at pains to stress that the indispensable pre-condition is support from the Soviet Union. "By promoting friendship and co-operation with the Soviet Union and other socialist countries, the revolutionary democratic forces help to establish *the necessary external political prerequisites for non-capitalist development. . . .* Gravitation towards the Soviet Union has become a characteristic feature of the political life of many national-democratic states, of Afro-Asian progressive forces".

These, in sum, are the tactics the Communists the world over are enjoined to follow. The tactical line is propounded in the official organ of the Soviet Embassy in India with perfect immunity. Whoever receives edification from such literature, it is not, one regrets, the Government of India.

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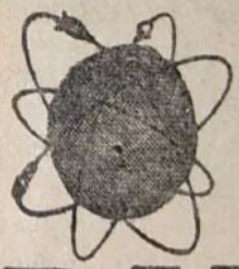

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HE SPEAKS

Well, now tell me,
what would you do to a
woman who wrote to you
saying : you haven't written
for three weeks. You're the
meanest man alive. Not even
an exclamation mark at the end
and she sends telegrams and
express letters saying it was
a joke, love, it was a joke.
I did what any self-respecting man
would. I ignored her for a week.
Her pleadings wore me down.
She was an affectionate creature
and tried hard, poor dear,
but never quite made the grade.
She would walk too close to me
and then protest naively: How
should lovers walk? Show me!
Ridiculous, too, her unseemly
mirth when I said confidentially:
I have such an hypnotic effect
on women. Everywhere I go
they fall into my arms.
Jamie Bond! she cried.
My man is India's answer
to Jamie Bond!
After that pathological display
I decided there was only one
thing to do: fix her.
The next time we were making love
I said quite casually:
I hope you realize I do this
with other women.

SHE SPEAKS

One day while making love
he said quite casually:
I hope you realize
I do this with other women.
One breakdown later
she also, quite casually
punched him in the eye.
Pathological! he cried.

Neurotic!
Psychotic!
A bitch!
A crow!
Which normal woman
would do this to a man?

ALIBI

My love says
for god's sake
don't write poems
which heave and pant
and resound to the music
of our thighs
etc.
Just keep at
what you are:
a sour old puss in verse
and leave the rest to me.

—Eunice de Souza

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HOW FUNDAMENTAL ARE OUR FUNDAMENTAL RIGHTS ?

A. H. DOCTOR

THE Constitution has chosen to describe the rights mentioned in Part III of our Constitution as 'Fundamental'. It is worth while examining how 'Fundamental' these rights are. The first thing that strikes one is that the rights enshrined in the Constitution are not fundamental in the sense that they impose limitations on both legislative and executive action, as do Fundamental Rights in the USA. Our rights limit only the Executive, not the Legislature, a position now made abundantly clear by the recent twenty-fourth and twenty-fifth amendments of the Constitution.

An examination of several individual Rights reveals the many "weaknesses" in each which detract from their 'fundamental' character. For instance the Right to Equality is subject to a class interpretation. Equality does not mean equality between one Indian and any other. It means equality in a class and it is left to the Parliament to classify people (create "classes"). Thus a scheduled caste or backward class person is not equal before the law with reference to other castes. The law can reserve seats for him in educational institutions, lower the age for competitive examinations etc. The Court has to see that equal treatment is meted out between one member and another of the same caste. It cannot proceed to enforce "Equality Before the Law" with regard to different classes. Similarly, the prevention of Hindu Bigamous Marriages Act is applicable only to the class of people determined by Parliament to be Hindus (which includes Sikhs) and cannot be enforced against members of another class, say Muslims. In brief, the situation prevailing with reference to the Right to Equality (Article 14-18) is: Parliament has the sovereign right to classify people and the Courts guarantee "Equality Before the Law" and "Equal Treatment of the Law" only between members of the same class.

Take next the Right to Freedom and Personal Liberty. It is interesting to note that article 19 which mentions the Freedoms of Speech, Assembly, Association, Movement, Trade and Property, does not make any reference to the Freedom of the Press. Nevertheless, we have Dr. Ambedkar's assurance given in the course of the Constituent Assembly Debates that the right to freedom of Speech and Expression granted to individuals includes editors and the press. If this be so, then why the loose talk regarding "Nationalisation of the Monopoly press" and "Social Control of the Press"? Further, the Right to Freedom of Speech and Expression of the Press is severely limited by the restriction—unique in constitutional history—"imposed in the interest of maintaining friendly relations with other countries". It is possible to visualise, under this provision, a Government preventing the expression of opinion which it considers prejudicial to, say, Indo-Soviet or Indo-Arab relations.

The guarantee of Personal Liberty (Article 20) is vitiated by the absence of "Double Jeopardy", the absence of Right to Privacy and against Preventive Detention. In the USA a man once acquitted by the Court cannot be tried again for the same offence even if fresh evidence comes to light. Not so in our country where a case can be re-opened any time. This has a terribly upsetting effect on the mind of the accused who even if acquitted today cannot have any mental peace since the state or plaintiff could theoretically get the case re-opened any time on grounds of fresh evidence. The American citizen's personal liberty also includes the Right to Privacy. This right strictly speaking is a corollary of the principle: No man should be forced to give evidence against himself. Thanks to this Right the house of an American citizen cannot be searched without a warrant. In India due to the absence of this right the police are free to raid any house, search, ransack cupboards and seize documents, any time, on the slightest suspicion, unhindered by any judicial restraint. Finally, the prevalence of the Preventive Detention Act militates against the citizen's Personal Liberty to the extent it gives the executive arbitrary power to detain any citizen not for an offence committed but on account of the suspicion harboured by the Executive that he may commit an offence. Certain safeguards do exist. For instance the detenu must be told of the grounds of his detention and he is free to challenge the detention as malafide, that is, beyond the legitimate grounds for detention as laid down in the Act. A Review Board has been set up to review all detention cases and the detenu has the right to legal counsel. In favour of the Act (at least in the prevailing Indian situation) must be mentioned the fact that the measure has some value in enabling the executive to check mischief-makers fermenting communal frenzy and encouraging riots or such lawless elements as the Naxalities. As against this must also be mentioned the fact that often the grounds given for detention have been vague and it is up to the state to refuse revealing them in the interests of the security of the State. Secondly, challenging the detention as malafide is a costly affair and may not be within the means of every detenu.

The Right to Private Property granted by articles 19 and 31 in our Constitution has been so severely restricted that some have declared it to be non-existent. Article 19 speaks of the right to "hold, acquire and dispose" of property; while, article 31 states that no person shall be deprived of property except by procedure established by law. The earliest limitation on this right was imposed by the Constitutional Amendment Act, 1951, which while abolishing the Zamindari system, empowered the Government to acquire "estates" and it was left to the Government to define the term "estates". "Estates" was then defined to include the erstwhile Zamindari lands. It can be re-defined any time and an extreme radical Government could so define it as to take over all agriculture land, thereby abolishing private property in agriculture. No doubt a Government ought to have the right to take over private property for a "Public Purpose", but whether it is actually done so by the Government can be looked into by the law courts. But once the term "estates" has been defined, the power of the Court is severely limited to seeing that only

"estates" as defined by the Act are taken over.

A very important adjunct to the Right to Private Property is the right to compensation for property taken by Government. One of the earliest constitutional amendments made the question of the amount of compensation non-justiciable. This was done to get over the difficulties faced by the Government in paying the full market value of the Zamindari land acquired by it. This particular action in the case of the Zamindars may have been justified, but the constitutional amendment gives the Government a blank cheque; it could pay any amount as compensation and get away with it. The Court allowed this position to continue till last year when in the Bank Nationalisation Case (1970, 3, SCR 330) it interpreted the word compensation to mean not any amount but an amount equivalent to the value of what was being taken. The Court held that the idea of equivalence was implicit in the English usage of the term compensation. To overcome this limitation imposed on them in the interest of Fundamental Rights the Government has now come forth with the 25th Amendment which drops the word compensation altogether and replaces it by the word "amount".

The twenty-fourth amendment which has become law this year subordinates the right to property to the Directive Principles contained in Articles 39(B) and (C). Clause (B) requires the State to direct its policy towards securing "That ownership and control of the material resources of the community are distributed in such a manner as best to subserve the common good". While (C) requires the State to see "That the economic system does not operate in such a manner as to result in the concentration of wealth and the means of production to the common detriment." The new amendment provides that if any law is passed to give effect to these two clauses and contains a declaration to that effect, "such law shall not be deemed to be void on the ground that it takes away or abridges any of the rights contained in articles 14, 19 or 31 and shall not be questioned on the ground that it does not give effect to those principles". The implication of this amendment is that the Government has merely to write on the Bill that this is in the interest of securing the Directive contained in Clause (B) or (C) of article 39 and the power of the Court to examine the bill with a view to seeing whether it abridges or infringes on Fundamental Rights ceases to operate. After all this, how can it be said that a Fundamental Right to property exists? Who is there now to ensure that Government will only bring forth measures under the newly acquired powers to truly promote the objectives of Article 39(B) and (C)?

It is not only the Right to Property that has ceased to be fundamental. This is more or less the fate of all the other fundamental rights too, thanks to the twenty-fourth amendment. The Government came forth with this amendment to undo the effect of the Supreme Court decision in the Golaknath case. The majority view in this decision was that any law made under article 368 which lays down the procedure for the amendment of the Constitution was subject to article 13 which states in general that no law made by Parliament shall abridge or take away the Fundamental

Rights. Hence even by an amendment of the Constitution, the Fundamental Rights could not be abridged or taken away. The Law Minister, Mr. Gokhale, moving the Constitution (twenty-fourth) Amendment Bill, 1971, stated that it restored to Parliament the right to amend any part of the Constitution including the Fundamental Rights and midst loud thumping of desks stated, "When this amendment is carried, I dare say, it will be a land-mark in the legislative and constitutional history of our country" (*Times of India*, 4-8-1971). The Bill, in the first place, amends article 13 to make it inapplicable to any amendment of the constitution under article 368. Secondly, the Bill provides that when a Constitution Amendment Bill passed by both houses is presented to the President for his assent, he should give his assent thereto. This takes away the discretionary power, the President had, to withhold a Bill which he considered as undermining the Constitution itself (and to uphold which the President takes an oath before assuming office). The combined effect of all this is that no Right is Fundamental in the sense that it is available against both the Executive and the Legislature and there is nothing of abiding value in these Rights which it is considered desirable to keep beyond the Executive and Legislative reach. In brief, our Fundamental Rights are what the Government and Parliament may consider "Fundamental" from time to time.

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THE REVOLUTIONARY

It had never come
burning across his skin
like a hot dye.
And yet he shook—a leaf in the wind
sweated like the floor-plinth of a stalactite
at the mere thought of it—
a lash-burn smoking on his back.

As a schoolboy when hoodlums
had mugged a friend of his
with cycle-chains
bystanders, when the show was over,
splashed water on his face and not his pal's
for shock had turned to hard ice on his brow.

And now lean and volatile and so intent
that half a life seemed packed in every gesture
and so young, who would have thought
that death sat on his vulture-shoulders?

This was the time, he thought, this
when dry dusk followed dry dawn
in the second year of the drought;
this was the time,
when tongues were hanging out
like red wounds
that they should strike the match
with all that dry-as-death driftwood
waiting for the spark!
Revolution!
The road of flame!

What hawk would wheel in
with the message tagged to the claws
"Let shells rain on the Drought-City!
mobilize despair and turn it into murder!
Put the city to torch let it not thrive on shame
—our staple diet!"

One morning posters
grew out of walls like fungus,
the bald head of a statue rolled
face smeared with tar,
a flame-thrower fell on a police outpost
blinding a recruit in one eye.

They nabbed him at three in the morning,
cozy in his quilt
and dreaming of his mother;
his unkempt handsomeness
in disarray around him
—and wildly stammering

Were these the tumbrils rolling
roles reserved, the bourgeois throng
screaming for blood?
Were these the tumbrils rolling?
Was that woman standing on the balcony
rocking in lament, his mother?
And the younger one who couldn't afford to cry
whose face crumpled only in the bathroom
was that his girl?
They took him to a room where the stones
were as damp as his brow
where the lash dangled from a rusty peg
and he shivered—from cold or fear or both I cannot say

And late at night as orion crashed
into the ground, that shadow
tall, almost tree-like, in front of his cell
was that the angel of death
or a lawyer wringing his hands
pleading for bail?

—K. N. Daruwalla

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THE PRESENT STATE OF POPULATION CONTROL

SHAKUNTALA PARANJPYE

THE census figures are out. If they be correct one has to concede that the programme for population control has made some progress. No doubt the population has increased but not as much as was feared. So far so good. The Expert Committee of population projection 1964, had anticipated a figure of 561 million on the census date of 1-4-1972. The census however revealed the actual population to be 547 million. This difference of 14 million can be attributed to two causes (1) that the predicted death rate did not come down to the expected levels, and (2) the Family Planning programme has made an impact on the growth of population.

The really alarming feature of the figures that are out is that the growth rate of population is still on the increase, which means that the reproductive population is growing and will lead to further increase in population unless checked by measures of birth control. That this can be done is demonstrated by Mrs. Dandekar of Gokhale Institute of Politics and Economics, in her book *Prospects of Population Control* (Orient Longman Ltd.). During the year 1951-1966, i.e. during the period of the first three Plans she has shown how sustained efforts by Government and by voluntary clinics for Family Planning have succeeded in reducing the birth rate of Poona City by 21 per cent, 5674 case cards of different clinic visitors were obtained and 20 per cent of these cases were selected for further scrutiny with a two fold purpose. One was to evaluate the data available from the clinics and to supplement it with additional information not obtainable from clinc records, and the second purpose was to assess the attitudes of clinic visitors towards the clinics and towards the practice of contraception. Elaborate questions were asked and all kinds of information was collected. It was found that though 70 per cent of clinic visitors discontinued visiting the clinics 8 per cent of them continued to take interest in Planned Parenthood. Another point revealed by the book is that whereas, in 1951, only 12 per cent of the population admitted any knowledge regarding population control, in 1964 the percentage was 98.

In a thought provoking article written in the Maharashtra Times Dr. Punekar has pointed out that though Maharashtra has been the doyen of birth control, since 1921 when the late Mr. R. D. Karve first launched the movement, the population of Maharashtra is growing faster than that of the country as a whole and its growth rate is 3 points higher. The explanation of this anomaly is found by further studying the birth rates and death rates for the State and comparing them with those for the whole country. The birth rate for Maharashtra was 38.0 and the death rate was 12.7 for the years 1966-70 (*Family Welfare and Planning Programme in Maharashtra*, Government Central Press, Bombay). The birth rate for India

during 1951-61 was 41.7 and the death rate was 20.1 and it is unlikely that during 1966-70 the difference between the two could have been anywhere near that of Maharashtra. Thus the enhanced growth rate was mainly due to the improvement in the health conditions in Maharashtra which led to the lowering of the death rate so steeply. Another little fact which was brought to my notice when I visited the Health Department of the State was that the State Government was giving Triple Antigen Injections to the Children of sterilised men and women free of charge. No wonder then that the registered Infant Mortality rate for the State came down to 84 per 1,000 births whereas that of the country was 145.

Another significant reason for higher population growth rate for the State may be found when the census details regarding inter-migration trends in the country are disclosed. Dr. Punekar himself has pointed out the tremendous growth of big cities in Maharashtra during the last decade. A break-up of the population of these cities into Maharashtrians and non-Maharashtrians will throw a flood of light, I feel sure, on migration into the State of Maharashtra from other States.

After many years of clamouring Family Planning has been made a part of the Maternity and Child Welfare programme. In fact once the urgency for smal families is recognised for the nation, the size of the family should be a requirement to be filled in every case paper in a dispensary, hospital or any other health unit. Nay, information regarding the size of the family should be supplied in every form or application be it for school admission, employment, housing accommodation, etc. At a glance one would know if the family needed any advice regarding Planned Parenthood and could promptly direct the head of the family to the right place to get it. Persuasive motivation and incentives galore have been the order of the day. In the initial stages such treatment gave splendid dividends but now mollycoddling alone will not be enough. Those who deliberately refuse to plan or limit their families should get no help or aid whatsoever. It is good to note that some business houses are adopting this policy. The Governments both at the Centre and at the State level should withhold all aid, allowances and even increments and promotions from recalcitrant people till they agree to shoulder their responsibility in family planning. The recommendations of the Small Family Norm Committee are on similar lines. It is not only senseless but suicidal to help those who refuse to help themselves. Their demands for charity will never cease and the very purpose of aid will be defeated. Exercising a policy of disincentives will not only speed up the tempo of population control but make it purposeful and uniform for all communities.

At present only the State of Maharashtra is following a policy of disincentives. It will be worthwhile to study its scheme.

"DISINCENTIVES

(A) *For Individuals*

Withdrawal of the following concessions, relief grant or any other benefit from those families which do not restrict their size to three living

children or to the present size, if they have more than three children:

(1) Free medical treatment at the Government hospitals.
(2) Maternity leave with full pay to female Government servants having already three or more living children.
(3) Allotment of tenements in the State Housing Boards' colonies.
(4) Allotment of quarters to Government servants.
(5) Freeships, provision of free books, etc., to children of parents who are eligible for such benefits.
(6) Scholarships, except merit scholarships, including those available to children of different sections of society, freedom fighters and defence service personnel.
(7) Loan, subsidy, grant to individuals for various purposes and grant of land, including such loan, subsidy or grant to different sections of society, freedom fighters, ex-servicemen and Government servants."*

Maharashtra is to be congratulated for conducting the Family Planning programme on such progressive lines but if other States do not fall in line the population picture may tend to be lop-sided in the long run. States which manage to control their population will stand to loose since all financial disbursements are made mainly on the basis of population and Tamil Nadu is already complaining of having lost a seat or two in Parliament on that account. Even the grants awarded to the States for Family Planning are calculated in direct proportion to the population. To my mind any increase in population over the base year which should be fixed and the same for all States, should have an inverse effect in the calculation of Central grants.

The Government wasted a lot of time and money in flirting with the Intra-Uterine Devices and succeeded in thoroughly discrediting a cheap and simple method of conception control which would have been effective for a section of the society. Without proper prior pelvic examination it over-boosted the method, with indecent haste went in for stupendous target programmes, never warned the acceptors of likely side-effects, provided no facilities for proper follow-ups and finally frightened almost every one into keeping miles away from these devises.

The sterilisation programme which received a set-back because of the exaggerated publicity given to the I.U.C.Ds. has again picked up. Those who have themselves benefited by sterilisation are working at random as motivators earning a few rupees for their services. Regular and stable employment would have got far better work out of them. Nevertheless the lowest income groups accept sterilisation for the woman more readily than for the man and it is good to notice that the Government is falling in with the demand by making provision for more beds in the hospitals and for free transport.

For conception control all the different appliances should be easily available irrespective of their commercial off-take. I have discovered and

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* Family Welfare and Planning Programme in Maharashtra, Government Central Press, Bombay.

many medical people support me that diaphragms of all sizes are not easily obtainable. This is a very effective, convenient, easy method of conception control. It is also one of the oldest, formerly known as Dutch Cap. One diaphragm, moreover, if properly taken care of, can last for months and months, even years and therefore commercial interests may not find their manufacture very attractive. The Government on the other hand with its penchant for the public sector should make the commodity easily available. Why should it not open a branch for the manufacture of diaphragms at the factory in Kerala which makes condoms ?

Allocations for Family Planning become more and more liberal as time goes on, irrespective of the results they produce. Overhead expenditure eats up a large portion of the allocations but that is a common complaint for most other items too.

Up-to-date normal, healthy and thinking people have gone in for conception control while sub-normal, unhealthy and diseased individuals have gone on procreating in an unrestricted manner. The unhealthy stock therefore will be contributing proportionately more to the coming generations, if no action is taken to restrict its progeny.

Prevention of the progeny of the sub-normal, such as those suffering from leprosy, tuberculosis or mental defects, can be achieved either by segregating them or by compulsory sterilisation. The first is not feasible where the institutional accommodation for such people is not even one per cent of what is required. The second solution seems to be the only possible answer to the situation.

In fact the very idea of sterilisation came into being in order to prevent the mentally defective from procreating and the first sterilisation took place in the U.S.A. in 1897, in the State of Indiana where an Act was passed 10 years later. Twenty-six States followed suit and passed similar acts in that country in the years that followed. I am therefore suggesting nothing revolutionary or even new.

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ADVICE TO FELLOW-SWIMMERS

When you learn to swim
do not enter a river that has no ocean
to flow into, one ignorant of destinations
and knowing only the flowing as its destiny,
like the weary rivers of the blood
that bear the scum of ancient memories,
but go swim in the sea,
go swim in the great blue sea
where the first tide you meet is your body,
that familiar pest,
but if you learn to cross it
you are safe, yes, beyond it you are safe,
For, even sinking would make no difference then . . .

LINES ADDRESSED TO A DEVADASI

Ultimately there comes a time
When all faces look alike
All voices sound similar
And trees and lakes and mountains
Appear to bear a common signature.
It is then that you walk past your friends
And not recognise
And hear their questions but pick
No meaning out of words
It is then that your desires cease
And a homesickness begins
And you sit on the temple steps
A silent Devadasi, lovelorn
And aware of her destiny. . . .

—Kamala Das

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THE ELIGIBILITY OF BANGLA DESH FOR UN MEMBERSHIP

M. M. DAVE

IN spite of the reign of terror and brutality released by the Pakistani army over the people of Bangla Desh they have successfully emerged as an independent nation, a permanent State like any other State in this world. Its admission to the UN, therefore, requires to be seriously considered.

Article 4 of the UN Charter provides: "Membership in the United Nations is open to all peace loving States which accept the obligations contained in the Charter and in the judgment of the Organisation are able and willing to carry out these obligations."

The emergence of Bangla Desh as a State is beyond the shadow of any doubt. It has its territory, its own Government, and its people who owe allegiance to it. These are the three requisites for constitution of a State within the meaning of that word in international law. The fact that it is a peace loving nation is also beyond any doubt as in spite of the brutalities of the Pakistani armies to its people and in spite of the treatment, worse than that meted out by any known imperialist power to its colony, given to it by Pakistan during the course of the last two decades, neither the people of Bangla Desh nor their Government cherish any desire to continue to be at war with Pakistan. Nor have they any design to add to their territory by aggression or in any other manner. The obligations of the UN Charter would also be acceptable to Bangla Desh because being a peace loving nation it is interested in seeing that international peace and security are maintained for the common good of humanity. Since these factors are true and unchallengeable the judgment of the UN cannot be that this country is unwilling to carry out the obligations imposed by the Charter of the UN on its members. The ability of Bangla Desh to carry out the obligations under the UN Charter too is apparent because immediately on the defeat of the Pakistani army, the Bangla Desh Government has moved the Mukti Bahini—the army of the freedom fighters—to surrender the arms and its order has been fully complied with. If, therefore, the Bangla Desh Government accepts the obligations imposed by the UN Charter on its Members which obviously it will do when it puts in its regular application for admission with the requisite declaration, there is no scope in law for denying UN membership to it.

The UN has been formed with the avowed determination "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and the equal rights of men and women and nations big and small". The UN cannot therefore keep outside its organisation a State that has successfully survived military torture and brutality and emerged as an independent State in exercise of the right of its people for self

determination. Bangla Desh has now a population of 70 million and any delay in admitting this nation to UN membership would be tantamount to hesitation in accepting the dignity and worth of this large number of human beings and would be contrary to the avowed determination, with which the UN organisation has been formed and which has been boldly and unequivocally specified, in the Preamble to its Charter.

It may be said that for admitting Bangla Desh to the UN membership a recommendation of the Security Council in the first instance and thereafter a resolution of the General Assembly of the UN would be necessary in terms of paragraph 2 of Article 4 of the Charter ; and further in terms of Article 18 of the Charter the General Assembly's resolution would require the support of two thirds majority of the members present and voting, as the question of admission of new members to the UN is an important question within the meaning of Article 18. Further in terms of Article 27 the recommendation for admitting Bangla Desh to UN membership can be made by the Security Council only "by an affirmative vote of nine members including the concurring votes of the permanent members". If, therefore, any one of the five permanent members of the Security Council, viz. the Republic of China, France, USSR, UK, and USA chooses to oppose the entry of Bangla Desh to UN it cannot be admitted as a Member.

In any case these are matters of procedure. The substantive right to membership of the UN has been conferred on every State by the Charter provided it satisfies the requirements explained earlier. The decision on these points no doubt rests with the Members of the Security Council and the General Assembly but that decision should be a genuine finding of the actual position, and not be arbitrary, devoid of reason and contrary to the facts as they stand. In law and in any principle of justice and fairness known to the civilised world, one cannot be deprived of his right by those who sit in judgement unless they are able to show that the basis on which the right is claimed does not exist. The right for admission to UN membership is conferred by Article 4 of the Charter and unless it is possible to show that Bangla Desh is not a peace loving State or that it is not willing and/or able to carry out the obligations imposed on the members by the UN Charter no Member of the UN either in the General Assembly or in the Security Council would in law be entitled to vote against its entry in the UN. Any attempt to cast such an adverse vote by any Member would be inconsistent with the purpose of "friendly relations among nations based on respect for the principle of equal rights and self determination of people", and "of international co-operation in solving international problems of humanitarian charter and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction". So long as the Members of the UN are bound by paragraph 4 of Article 1 of the Charter to see that the UN continues "to be a centre for harmonising the actions of nations in the attainment of the common ends of the Charter" there is absolutely no scope for any of them pleading that Bangla Desh should be debarred from its right to enter the Organisation.

Main objections, likely to come up against Bangla Desh's entry to UN membership will be from Pakistan in the General Assembly and from China or USA in the Security Council. Pakistan and its supporters' grouse would be that the emergence of Bangla Desh is the result of outside agencies' interference in the domestic matters of Pakistan and that any recognition of Bangla Desh by the UN would further mean encouraging action dismembering the territorial integrity and political unity of Pakistan which was and still is a sovereign and independent State. In support of this contention it may refer to the declaration of the principles of international law approved by the General Assembly by its Resolution 2625 (XXV) dated 24th October 1970. But that is not helpful to it if considered in a legal and judicial manner. The principle of self determination as adopted under the said resolution clearly lays down: "The establishment of a sovereign and independent state, the free integration or association with an independent state, or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self determination by that people". The independence achieved by the people of Bangla Desh has for its basis the determination by the people's representatives returned at the elections conducted by the military regime itself and the valiant sacrifices and sufferings by the people for asserting that independence against the brutalities let loose on them by the Pakistani army. It cannot, therefore, be said that the emergence of Bangla Desh is anything else than self determination by the people of their free will. The exception to this general principle applies only when the action complained of is against "the Government representing the whole people belonging to the territory without distinction as to race, creed or colour". The relative paragraph in the declaration reads as under:

"Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair totally or in part the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and this possessed of a Government representing the whole people belonging to the territory without distinction as to the race, creed or colour."

The fact that the military regime which held Bangla Desh under sway was not conducting itself in compliance with the principles of self-determination of the people and was all the time harping upon its creed of Islam and inflicting all the tortures on the civil population in the name of the Koran needs no proof. Pakistan cannot, therefore, derive any help from the above paragraph.

Further, so far as the admission of a state to UN is concerned, the position is quite clear and has been judicially pronounced on by the International Court of Justice in its advisory opinion in the following terms:

> "A member of the United Nations voting on the application of a State for membership is not jurisdically entitled to make its consent to admission dependent on conditions not expressly provided by paragraph 1 of Article 4 of the Charter."

This opinion excludes the possibility that, consistently with the letter and spirit of the Charter, any Member can base its vote on anything outside the scope of Article 4. As already explained above, therefore, it is not legally open to any Member of the United Nations in the General Assembly or in the Security Council to deny to Bangla Desh a right to be a Member of the UN.

PARDON US

Never try to outsmart the audience.
Stan Laurel

Always themselves, trophied
before the unflattering
eye with just that touch
of the ridiculous the heart
admits, Fool or Jester, call them
what you will, you wear out
you skin laughing as they slip
on peels of incompetence:
they've helped us, the paint still
fresh on their noses, with Keaton,
Chaplin and Marx, to face
the music with unrehearsed poise.

—R. Parthasarathy

The title, 'Pardon Us', is from one of the early films of Stan Laurel (1890-1964) and Oliver Hardy (1892-1957), made in 1931 in the Hal Roach studios in Hollywood. Buster Keaton (1895-1965), Charlie Chaplin (b. 1889) and Groucho Marx (b. 1895) were their great contemporaries.

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EVOLUTIGN IN THREE PARTS

1.

Do you think I could summon up enough
courage to set down
in exact measurements the extent
of love? Say this is what
I will and will not
do for love, and love for me is the most
basic gratification of needs—food
clothes, vanity? Perhaps even the desperate clutch
at passing ecstasy cannot hold us
together for it can be found, had in any body's
grasp? Do you think you will not know as I see
us too, slip into the lie
that feigns a sigh
noisily, and can find small words
to hurt but not comfort? Can I face the reason
I toss all night dreading the certainty
of morning's confrontation? Why as so often
before I notice and mind a million blemishes
in you I know are reflections of mine? God made us
cowards that we hoard and hold
each other for the rushing moment
of need when we might be afraid
to be alone with him, for that little comfort
put up with our selves, that cling
disgusting yet dear in the other's eyes.

2.

If only one could shed notions
of generations and howl
face to moon or caterwaul
on dark nights, give vent
to fear loss loneliness—
they may all lessen or enlarge
engulf consume, but one walks
to the bus stop answering smiles
(not with the snarl
that rankles and curls in bowels)
and talks, buys a lunch, sleeps
only an occasional kick
at the howling pet or whining
child betrays frayed nerve.
After all, why not keep it all
civilized? Within bounds; no need
to go overboard, is there?

Who's irreplaceable? None.
Nor you, nor me, nor our love
alas. For we each have known
despair, blank shock, checked howling
grief; wish perhaps no more
the savagery even of cleavage thus.
Will suffice a mild tear
at death even.

3.

The sea is high
today bringing itself to my ear
its crash against the wall
raising restlessness that is sure
to wake me in a welter
of clothes, sweat of fear.
(Having got through the dreary day
there's the night too and the sea
and I'm afraid.) Once was a time
you know when absences mattered not
in my house of trouble. But now
I turn a coward, for you have wept
on my breast for me, and said,
who can harm you when I am by?
Not knowing of course
the burden is all mine
to keep me from sorrow, that you
may not think it your lapse
if I cry of nights in sleep
when you are not by.

—Gauri Deshpande

Continued from page 5]
I doubt if even he has any illusions about himself on these counts. A sound run-of-the-mill politician of our times in our country, to expect honesty from whom would be the same as expecting no sting from the scorpion your bare feet touches."

These then are the shining luminaries who tell us their objective is the "uplifting of man", "the improvement of the quality of the man", the man or man being presumably the ordinary citizen of India. A highly ironic situation! If indeed the Prime Minister and Finance Minister are capable of bringing about a change for the better in the moral nature of human beings, why don't they begin with themselves? Examining their own natures and behaviour even cursorily, they will find little difficulty in perceiving much that needs instant improvement. Let them concentrate on that for at least the next year, if they really hope to produce any change for the better in their fellow-citizens thereafter. Let them for instance stop living at public cost at the rate of annual incomes of over ten lakhs taxable, reducing the figure forthwith to seventy-two thousand taxable. Let them shed full light forthwith on the sixty-lakh mystery leading to Nagarwala's death. Let them tell the truth about their utter inability to manage profitably state enterprises, and their real reason for adding to the number of those, even when they know that very probably the result will be a reduction of the national product. When they have done all this and much more in the direction of shaming the Devil by staunch adherence to the truth and the following of right courses, their example will in itself both 'uplift' their fellow-citizens and cause their 'quality to improve'. That will be the proper time for adjuration and appeal. Today, this talk of theirs is clearly nothing more than a convenient slogan, intended to deceive. The gentleman practises and preaches according to his practice; the interior-charactered person just preaches. Unhappy the country governed by the latter must be in the very nature of things, nor is a limitation of the period of unhappiness likely if the hollowness of the preaching is not exposed, the *mala fides* of the preachers not made manifest. Shall the thistle yield grapes, the dishonest lead people to spiritual advancement? Better by far to reject this spurious propaganda. Be a lamp unto thyself, said the Buddha, and who can doubt that however dim and shaky one's own light, it is infinitely preferable to the meretricious brightness of the torches of deceiving authority, unworthy alike of its office and its trust?

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